

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

FROM: Policy Coordination and Liaison Committee
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Hon. Richard D. Aldrich, Chair, Court Fees Working Group
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DATE: November 29, 2004

SUBJECT: Uniform Civil Fees (Action Required)

Issue Statement

The Court Fees Working Group (CFWG), appointed by the Chief Justice in December 2003, undertook a comprehensive review of civil fee structures and proposed a uniform civil fee (UCF) structure, effective July 1, 2005.

Substantial progress has been made to address outstanding issues. The Policy Coordination and Liaison Committee and the CFWG recommend that the Judicial Council circulate the proposal for public comment while discussions and negotiations continue and sponsor urgency legislation in 2005 to establish a uniform civil fee structure.

Recommendation

The Policy Coordination and Liaison Committee and the Court Fees Working Group recommend that the Judicial Council sponsor urgency legislation in 2005 that will establish a uniform civil fee structure, effective July 1, 2005.

The draft legislative proposal is expected to be completed in December 2004. In the interest of ensuring prompt review by the Legislature in 2005, the Policy Coordination and Liaison Committee further recommends the following:

1. Office of Governmental (OGA) staff should immediately seek an author for the uniform civil fee proposal and should request that a “spot” bill be introduced as a placeholder for the proposal.

2. Administrative Office of the Courts (AOC) staff should circulate the uniform civil fee proposal for public comment on an expedited basis during December 2004.
3. The Policy Coordination and Liaison Committee, together with the chair of the Executive and Planning Committee and the chair of the Rules and Projects Committee, should review and approve the full legislative proposal as soon as is practical after conclusion of the public comment period.

Rationale for Recommendation

In December 2003, the Chief Justice appointed the Court Fees Working Group (CFWG) to undertake a comprehensive review of civil fees and make policy recommendations to achieve several goals. The CFWG recommended the creation of uniform civil fee (UCF) structure to streamline and vastly simplify current civil fees, provide for uniformity across the state, address the funding shortfall occurring under the current fee structure, and significantly improve financial stability, accountability, and predictability in the courts.

After the CFWG recommendations were issued in April 2004, AOC staff met with counties and county law libraries, dispute resolution program representatives, legislative staff, and others about the proposal. Counties and county law libraries raised concerns about maintaining county authority over programs that are supported through filing fees, and ensuring that a reliable method would be in place to allow necessary increases in the future. Although substantial progress was made, it was not possible to resolve all of the outstanding issues in time for the Legislature to consider a comprehensive uniform fee proposal in the 2004 session.

In response, Senator Martha Escutia and Assembly Member Ellen Corbett, chairs of the Senate and Assembly Judiciary Committees, respectively, sent a letter to Chief Justice Ronald M. George requesting a legislative proposal on uniform civil fees by December 2004. As requested by Senator Escutia and Assembly Member Corbett, all interested and affected parties—including representatives of the courts, the civil bar (CFWG members), counties, county law libraries, dispute resolution program representatives, court employee organizations, the State Controller's Office, the Department of Finance, and others—have continued discussions over the past several months to resolve the outstanding issues.

The CFWG and key stakeholders agreed in principle that a uniform fee structure would offer numerous benefits. It would:

- Streamline and simplify the civil fee structure. Various current surcharges and add-on fees would be consolidated into one filing fee.
- Create uniformity. Fees would be the same for the same services in all 58 counties.

- Address the funding shortfall. The new fee structure would eliminate the current \$17 million deficiency in the trial court budget.
- Maintain access. Fees would be modestly increased, but the ability to ensure access to justice for all Californians would be maintained.
- Ensure fairness. Reasonable differentials would remain in the fees based on different case types.
- Ensure accuracy and accountability. The implementation of a single, statewide civil fee schedule would increase accuracy in the collection and distribution of fee amounts and provide more detailed fee information to local courts, counties, and the state.
- Offer predictability. Courts and attorneys would know what the fee will be and that fees will not be changed through the end of 2007, with the possible exception of changes made within the uniform fee structure to increase funding for county law libraries.
- Stabilize funding. It would:
 - Remove sunset dates;
 - Increase filing fees to restore revenues to the level of the 2003 Budget Act; and
 - Preserve current revenue level for noncourt recipients of fees (i.e., counties, courts, law libraries, children’s waiting rooms).
 - Create and support infrastructure. To the extent feasible, funding would be provided to support facility and technology improvements in the trial courts.

Proposed uniform civil fee structure follows:

First Paper Filings

- Establish a statewide, uniform first paper and first responsive paper fee at three graduated levels depending on the amount of the claim:
 - Limited Civil Fee (less than or equal to \$10,000).....\$ 180
 - Limited Civil Fee (greater than \$10,000 and less than \$25,000) \$ 300
 - Unlimited Civil and Family Law Fee..... \$ 320
- Consolidate the security fee, \$25 court reporter fee, \$100 continuance fee, amended and cross complaint fee, and AB 3000 (10%) surcharge as they relate to first paper filing and response fees. Revenue would be included in the new consolidated fee.
- Establish facilities surcharges at \$20, \$25, and \$35 and include them in the consolidated filing fee.
- Establish a moratorium on fee changes. The uniform civil fee amounts will stay in effect through December 31, 2007, except for changes made by the Legislature related to county law library funding that may affect civil fees.
- Establish statewide average fees for Children’s Waiting Room, Dispute Resolution, Judges’ Retirement, and Law Library; consolidate these fees into first paper fee and distribute funds at current levels.

- Establish set-aside for increases in Dispute Resolution, Law Library, Children's Waiting Room and Judge's Retirement during proposed moratorium ending December 31, 2007.
- Establish new distribution of \$2 for Equal Access Fund.

Probate

- Establish statewide, uniform consolidated probate filing fee with the lowest level (estates valued at \$250,000 or less) at the same level as unlimited civil fees with each additional level preserving the existing variance in graduated levels.
- Establish fee for petition and response and appointment of guardians (for person only) at \$180.
- Establish fee for second or later-filed petitions, petitions concerning internal affairs of trusts, and appointment of guardians and conservators (for person and estate[s]) at \$320.

Small Claims

- In recognition of the court resources required for these filings and the funding shortfall in the budget year, recommend increase from \$22 and \$66 (frequent filers) to graduated fee structure below:
 - Less than or equal to \$1,500..... \$ 30
 - Greater than \$1,500 but less than or equal to \$5,000 \$ 50
 - Per filing, for 13th and subsequent filings per year \$ 75
- Eliminate the 10% surcharge and inclusion of the anticipated surcharge revenue in the consolidated fee level.
- The uniform fee proposal includes the following distributions from the small claims fee. to fund Small Claims Advisors services:
 - Less than or equal to \$1,500..... \$ 6
 - Greater than \$1,500; less than or equal to \$5,000 \$ 8
 - Per filing, if more than 12 filings per year \$ 14

Changes to Other Existing Fees

- Establish statewide, uniform fees for the following, eliminating the AB 3000 (10%) surcharge and increasing the Motion and Summary Judgment Motion fees:
 - Complex Filing Fee (consolidation of 10% surcharge only) \$ 550
 - Motion Fee (previously \$36.30 with 10% surcharge)..... \$ 40
 - Summary Judgment Motion (previously \$165 with 10% surcharge) \$ 200

Miscellaneous Fees

- Establish uniform statewide miscellaneous-fee categories:
 - Group fees for similar types of services
 - Set a uniform fee for each group

Alternative Actions Considered

Numerous alternatives were considered in the discussions and negotiations on the uniform civil fee structure. These included further consolidating the civil fee structure to eliminate the two separate levels of “limited” civil cases and establishing an additional category of civil cases for matters involving more than \$500,000 in controversy. Many alternatives concerning how to maintain the revenue stream to noncourt programs in a fair and equitable manner were discussed. After extensive analysis and discussion with interested and affected groups, AOC staff recommends the uniform civil fee structure described above.

Comments From Interested Parties

Information about the proposal has been provided to numerous groups and organizations over the past year. In addition to the Court Fees Working Group, whose members represented a broad cross-section of the civil bar as well as courts from diverse geographic locations, staff have worked closely with interested groups to seek support for and resolve outstanding issues. These groups included counties, county law libraries, county dispute resolution programs, the State Bar Board of Governors, court employee organizations and court staff representatives.

The lengthy draft of all necessary statutory changes is nearly complete and will be available for review on the Judicial Council’s Web site in December. The comments that are received will assist in identifying the necessary fine-tuning and clarifying amendments to this complex proposal in advance of its introduction in the Legislature. The legislative process, of course, will also provide for review and input from interested and affected groups.

Implementation Requirements and Costs

Although significant implementation requirements will result from this proposal, the long-term benefits of a uniform, predictable, and simplified fee structure will dramatically outweigh the initial expenditures of both staff and resources that are necessary to institute the uniform civil fee structure. AOC staff are meeting regularly with representatives of the State Controller’s Office to identify issues, make decisions, and develop implementation plans. In addition, the AOC has begun meeting with court staff to determine the scope of implementation issues for the courts and develop a comprehensive implementation plan.